

Minutes of the July 20, 2001, meeting  
City Council Chambers  
815 West Sixth Street  
Corona

1. Chair Withers called the meeting to order at 9:00 a.m.

Board Members Present

Board Members Absent

John Withers, Chair  
Carole Beswick, Vice-Chair  
Jose Solorio  
Seymour Van Gundy  
Frank Williams  
Fred Ameri

Staff Members Present

Gerard J. Thibeault, Executive Officer  
Kurt V. Berchtold, Assistant Executive Officer  
Robert L. Holub, Supervising Water Resource Control Engineer  
Joanne E. Schneider, Environmental Program Manager  
Michael J. Adackapara, Supervising Water Resource Control Engineer  
Wanda K. Smith, Chief, Basin Planning (Coastal Waters)  
Mark E. Smythe, Chief, Storm Water (Coastal Waters)  
Steven D. Mayville, Chief, Dairies  
Barbara Laffoon, Secretary

Legal Counsel

Ted Cobb

Public Attendance

Traci Stewart, Chino Basin Watermaster  
Grant Sharp, County of Orange, PFRD  
Paul Morrison, Northeast Mosquito & Vector Control 1  
Jack Wamsley, City of Canyon Lake  
Marshall Beele  
Mark Carroll, City of Irvine  
Richard Meyer, Orange County Vector Control District  
Ron Elliott, Orange County Vector Control District  
Damon DeFrates, El Sobrante Landfill  
Scott A. Jenkins, El Sobrante Landfill  
Francisco Lopez, OC Alphabetic, Inc.  
Souri Amirani, City of Santa Ana  
Jay Golida, Richards, Watson & Gershon  
Richard G. King, California Trade and Commerce Agency  
Joyce Clark, Metropolitan Water District  
Ken R. Smith, Orange County PFRD  
John Workman, Waste Management  
Lisa Ann Pierce, San Timoteo Greenway Conservancy  
Gene Estrada, County of Orange  
Cynthia Gabaldon, City of Corona

2. Public Forum

There were no public comments.

3. Approval of Minutes of, 2001 meeting

There being no additions or corrections, the minutes of the regular board meeting held on June 1, 2001 were approved as presented.

4. Approval of Consent Calendar Items

A request had been made to publicly address item 6, New Waste Discharge Requirements (WDRs) for the San Timoteo Creek Reach 3B, Order No. 01-75, and Executive Officer (EO) Thibeault asked that it be removed from the consent calendar.

EO Thibeault requested that item 7, Revised WDRs and NPDES Permit for Colton/San Bernardino RIX facility, Order No. 01-45, be postponed to the September 14, 2001 meeting and noted that items 5, 8, and 9 remained on the consent calendar. Item 9 had errata.

Action: It was moved by Board Member Williams, seconded by Board Member Van Gundy, and unanimously carried to adopt Rescission of WDRs for Specific Facilities Order No. 01-67 as presented, Amended WDRs for Elsinore Valley Municipal Water District, Order No. 01-70, and Revised WDRs for El Sobrante Landfill, Order No. 01-53 with errata.

\*6. New Waste Discharge Requirements for the San Timoteo Creek Reach 3B Flood Control Project, San Bernardino County – Order No. 01-75

Lisa Ann Pierce, San Timoteo Greenway Conservancy, expressed surprise that this item had been listed as 'not controversial' and outlined various concerns held by the Conservancy. These related to off-site mitigation and she requested that the Board withhold approval at this time.

Action: It was moved by Board Member Beswick, seconded by Board Member Williams and unanimously approved to table this item to the September 14, 2001 meeting.

Recess

The Board recessed at 11:00 and resumed at 11:05 a.m.

10. Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement - Brad Markey

Jun Martirez, Chief of Regulations, outlined the minimum lot size requirements for addition of a second septic tank on Mr. Markey's property. Staff presented the options available, but Mr. Markey felt the requirements were unfair based on the facts that a new housing development had just gone in nearby with lots smaller than the one-half acre requirement and that the County of San Bernardino had issued him a building permit with no mention of any restriction regarding septic tanks. Mr. Markey presented the building permit and other documents, which had not been provided to staff previously. After a lengthy discussion, Member Williams asked that this item be set aside while staff met separately with Mr. Markey and discussed various possibilities that had been raised as a result of new information made available during the presentation.

The item was temporarily set aside for deliberation later in the meeting.

When presented later, Board Member Solorio expressed concern that the Board would gain a reputation of being lenient and would "cave in" to cover mistakes made by other agencies such as the County of San Bernardino, and felt he could not support approval of the appeal.

Action: It was moved by Board Member Ameri, seconded by Board Member Beswick, and carried (4 to 2) to approve the exemption from the minimum lot size with the condition that the building is not to be used as a second residence.

Board Member Beswick expressed concern that permits were issued often in violation of the Board's regulations and requested a more official action with regard to the County of San Bernardino. She requested that an item to address this be placed on the next Board agenda.

11. Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement – Paul and Debra Trozzi

Joanne Schneider, Environmental Program Manager, gave the staff recommendation that the the Trozzi's request to use an alternative waste treatment and disposal system at the site be denied. Mr. and Mrs. Trozzi, who are considering purchase of the property and are not yet owners, did not appear to address their request.

Action: It was moved by Board Member Beswick, seconded by Board Member Solorio, and unanimously carried to deny the appeal for exemption from the minimum lot size requirement.

- 12. Administrative Civil Liability Complaint, Liquinox Company, ACLC No. 01-71
- 13. Administrative Civil Liability Complaint, Guthrie Development Company, ACLC No. 01-73
- 14. Administrative Civil Liability Complaint, Brookfield Homes, ACLC No. 01-76

Executive Officer Thibeault noted that the dischargers had waived their right to a hearing and paid the civil liability assessments. Therefore, no further action is required by the Regional Board.

15. Administrative Civil Liability Complaint, O.C. Alphanetics – ACLC 01-72

Information pertaining to this item is contained in a verbatim transcript.

Aaron Buck, Environmental Specialist, Storm Water, presented the actions taken by Board staff that had resulted in the issuance of the ACLC. During a routine inspection of the facility by Board staff, the discharger was unable to produce a Storm Water Pollution Prevention Plan (SWPPP), observation or inspection logs, employee training or training logs for recording data, sampling and analysis for the current storm season, or copies of past annual reports. All of these are required by the general permit.

Staff conducted a physical inspection and observed evidence of improper handling of hazardous waste and spill cleanup. Accompanied by the Section Chief, a follow-up inspection was made the following day, and staff observed additional unauthorized non-storm water discharges.

Based on past annual report violations, no SWPPP, lack of effective BMPs and repeated unauthorized, non-storm water discharges, staff recommended that the board affirm the maximum civil liability of \$20,000.

Terry Balog, Frog Environmental, and Paco Lopez, President of O.C. Alphanetics, addressed the Board regarding the charges and the liability.

Daniel Cooper, representing Orange County CoastKeeper and Lawyers for Clean Water, complimented the staff for both the excellent investigations performed and presentation; however, he took exception to the amount of the penalty for two days. He felt the discharger had been out of compliance with the permit for many years, that they had realized economic benefit from their failure to comply and asked the Board to impose a more significant penalty or refer the matter for criminal enforcement. Mr. Cooper further objected to penalties being waived for dischargers who agreed to put measures in place that should have been implemented years ago.

Legal Counsel Cobb noted that \$20,000 was the most the Board could assess at that time. Penalties suggested by Mr. Cooper are outlined in the Clean Water Act, and the Regional Board operates under the Porter-Cologne Act, which permits \$10,000 a day.

David Beckman, NRDC/Defend the Bay, voiced disagreement with Counsel Cobb's statement regarding the limits the Board could impose that day.

Action: It was moved by Board Member Ameri, seconded by Board Member Van Gundy, and unanimously carried that the Board accept the staff recommendation and affirm Administrative Civil Liability Complaint No. 01-72 as presented.

16. Revised Cease and Desist Order (CDO) No. 99-65 for Dairies and Related Facilities – Order No. 01-74

Information pertaining to this item is contained in a verbatim transcript.

Supervising Water Resource Control Engineer Robert Holub outlined the original requirements in CDO 99-65 regarding the time schedules for implementation of an Engineered Waste Management Plan (EWMP). The proposed amendment provides a more realistic time schedule in meeting the requirement. He cited staff constraints and revision of the EWMP guidelines.

Mr. Holub advised the Board that only one comment letter had been received regarding the proposed revision.

Board Member Williams asked that the number and types of violations noted during the prior year's inspections be provided to the Board.

Chuck Hale, Executive Director, Southern California Agricultural Land Foundation, expressed dissatisfaction with Board staff in applying priorities other than the date received — "first come, first served" — to the review of EWMPs. He stated that Board records were not maintained in order, suggested the Board revise the way the office is operated and the files are kept, and address the manner that people are treated when they come to the Regional office.

David Beckman, NRDC/Defend the Bay, said they objected to the Board taking the staff recommendation and had submitted a letter outlining their reasons. He also objected to the use of witnesses who had not been sworn in before the Board took their comments.

Board Member Williams requested that staff respond to some of the issues raised in Mr. Hale's comments.

Legal Counsel Cobb noted that basically none of Mr. Hale's comments dealt with the motion before the Board regarding revision of the CDO.

Board Member Williams thought Mr. Hale had objected to the new guidelines. Mr. Cobb advised that this proposed revision did not deal with a change in guidelines, only in the time allotted for EWMPs.

Member Beswick inquired about the possibility of dedicating staff to the review of the plans and was told that that action was already scheduled to begin the following Monday with the arrival of new staff.

Action: It was moved by Board Member Van Gundy, seconded by Board Member Beswick, that the Board adopt CDO No. 01-74 with the clarification of footnote #1. Board members Ameri, Williams, Van Gundy, Solorio, Beswick, and Withers responded aye; motion passed, 6 ayes 0 noes.

24. Executive Report (taken out of order)

Executive Officer Thibeault advised the Board that the information needed with regard to the issuance of a 401 certification for the Vila Borba Project had not been submitted. Since the Board had directed issuance of the certification, he requested Board direction regarding the next steps to be taken, whether they wished him to take steps within his jurisdiction to deny without prejudice, or did they wish to hold a special Board meeting to reconsider the issue.

The consensus was that EO Thibeault take the proper steps as he saw fit to resolve the issue.

17. FFY 2002 Clean Water Act 319(h) Nonpoint Source Grant and 205(j) Water Quality Planning Grant Proposals

The Board accepted the rankings and project proposals as presented in the documentation contained in the agenda.

Action: It was moved by Board Member Van Gundy seconded by Board Member Solorio and unanimously carried that the Board approve the proposals of Staff for the FFY 2002 Clean Water Act 319(h) Nonpoint Source Grant and 205(j) Water Quality Planning Grant.

Recess

The Board was recessed at 12:29 and reconvened at 12:40 p.m.

18. Public Workshop, Renewal of Waste Discharge Requirements, Orange County Public Facilities and Resources Department and Incorporated Cities of Orange County, Urban Storm Water Runoff Management Program (NPDES No. CA8618030)

Mark Smythe, Chief, Storm Water Coastal Waters, discussed comments received to date regarding the proposed permit that is to be considered September 14, 2001.

Addressing their concerns and comments on the draft permit were:  
Herb Nakasone, Manager of Program Development for Orange County  
Karen Ashby, Storm Water Supervisor, Orange County  
Mark Carroll, City Engineer, City of Irvine  
Souri Amirani, Manager Design Engineering, City of Santa Ana  
Geraldine Lucas, Environmental Engineer, City of Huntington Beach  
Marco Metzger, California Dept. of Health Services, Ontario  
Tim Piasky, Building Industry Association, Southern California  
Matthew Henderson, Orange County CoastKeeper/Lawyers for Clean Water  
Daniel Cooper, Orange County CoastKeeper/Lawyers for Clean Water  
David Beckman, Natural Resources Defense Council/Defend the Bay

Garry Brown, Orange County CoastKeeper

Board Member Solorio requested that the Board be provided a copy of the comments submitted regarding the proposed permit.

19. General Permits

Staff provided a list of all new permittees recently enrolled under the Region's general permits.

20. Hazardous Waste and Sewage Spill Incident Report

Staff provided the Board with a list of incidents occurring since those reported at the June 1, 2001 Board meeting.

21. Underground Storage Tanks Site Closure Report

Staff provided the Board with a list of the underground storage tanks site closures since those presented at the April 19, 2001 Board meeting.

22. Underground Storage Tanks Corrective Action Plans

Staff provided the Board with a list of the corrective action plans for underground storage tanks since the April 19, 2001 Board meeting.

23. Quarterly Violations Report

A list of violations was provided to the Board, as required by the State Water Resources Control Board's Water Quality Enforcement Policy.

25. Regional Board Member Communications

There were none.

26. Closed Session

After stating the need to meet to discuss the Casmalia lawsuit, the Board entered closed session at 2:00 p.m. and reconvened the open meeting at 2:05 p.m.

27. Adjournment

The meeting was adjourned at 2:05 p.m. to the regular meeting of September 14, at 9:00 a.m., at the Orange County Water District.

Respectfully submitted:

GERARD J. THIBEAULT  
Executive Officer

/bjl